

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

J. MICHAEL CHARLES; MAURICE W.)	C. A. NO. 05-702 (SLR)
WARD, JR.; and JOSEPH I. FINK, JR., on)	(Lead Case)
behalf of themselves and all others similarly)	
situated,)	
)	
Plaintiffs,)	
)	
v.)	
)	
PEPCO HOLDINGS, INC; CONECTIV, and)	
PEPCO HOLDINGS RETIREMENT PLAN,)	
)	
Defendants.)	

**PLAINTIFFS' RESPONSE TO DEFENDANTS'
NOTICE OF SUPPLEMENTAL AUTHORITY**


The Plaintiffs hereby respond to Defendants' Notice of Supplemental Authority.

The Defendants are correct that Count III of the Complaint cannot be sustained based on the Third Circuit's January 30, 2007 Opinion in *Register v. PNC Financial Servs. Group*, ___ F.3d ___, 2007 WL 222019 (3rd Cir. 2006). However, on February 13, 2007 the *Register* Appellants petitioned the Third Circuit for Rehearing *en banc* and, alternatively, for Panel Rehearing, a copy of the docket is attached as Exhibit A. A final decision by the Third Circuit will resolve Count III of this Complaint. In the interest of judicial economy the Plaintiffs request that Count III of the Complaint remain stayed until the Third Circuit has ruled on the Petition.

Respectfully submitted,

Dated: February 23, 2007

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